

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re United States Patent Application of:)	Docket No.:	4115-178
)		
Applicants: HONE, David)	Conf. No.:	4972
)		
Application No.: 10/525,702)	Art Unit:	1648
)		
Date Filed: December 20, 2005)	Examiner:	Nicole Kinsey White
)		
Title: RECOMBINANT DOUBLE-STRANDED RNA PHAGES AND USES THEREOF)	Customer No.:	23448
)		
)		

**DECLARATION OF STEVEN J. HULTQUIST UNDER 35 USC 132 CONCERNING
PUBLIC AVAILABILITY OF IRES SEQUENCES AT TIME OF FILING OF U.S.
PATENT APPLICATION NO. 10/525,702**

I, Steven Hultquist, hereby declare as follows:

1. I am attorney of record in U.S. Patent Application No. 10/525,702, having a filing date of December 20, 2005 ("Application"), and I represent the University of Maryland Biotechnology Institute, the record owner of the Application;
2. I have prepared and am concurrently filing with this Declaration a "SUBMISSION OF AMENDMENTS AND SEQUENCE LISTING TO EFFECTUATE REVISIONS OF U.S. PATENT APPLICATION NO. 10/525,702 PROPOSED BY EXAMINER NICOLE KINSEY WHITE" to present amendments adding SEQ ID NOS: 1-8 to the specification and claims, and an appertaining sequence listing, for specific internal ribosome entry site (IRES) nucleotide sequences identified in the specification at page 8, line 15 to page 9 line 14 of the Application as originally filed;
3. The IRES nucleotide sequence designated SEQ ID NO: 1 is identical to the IRES nucleotide sequence identified and disclosed in the Application as GenBank Accession Number Y11034.1;

4. The IRES nucleotide sequence designated SEQ ID NO: 2 is identical to the IRES nucleotide sequence identified and disclosed in the Application as GenBank Accession Number AF171227.1;
5. The IRES nucleotide sequence designated SEQ ID NO: 3 is identical to the IRES nucleotide sequence identified and disclosed in the Application as GenBank Accession Number Y07702.1;
6. The IRES nucleotide sequence designated SEQ ID NO: 4 is identical to the IRES nucleotide sequence identified and disclosed in the Application as GenBank Accession Number AJ000156.1;
7. The IRES nucleotide sequence designated SEQ ID NO: 5 is identical to the IRES nucleotide sequence identified and disclosed in the Application as GenBank Accession Number D88622.1;
8. The IRES nucleotide sequence designated SEQ ID NO: 6 is identical to the IRES nucleotide sequence identified and disclosed in the Application as the IRES sequence of nucleotides 665-1251 in plasmid pIRES2-EGFP available from Clontech BD Biosciences Corporation as Catalog No. 6029-1;
9. The IRES nucleotide sequence designated SEQ ID NO: 7 is identical to the IRES nucleotide sequence identified and disclosed in the Application as the IRES sequence of nucleotides 16 to 518 in plasmid pCITE4a available from Novagen Corporation and as set out in U.S. Patent Number 4,937,190;
10. The IRES nucleotide sequence designated as SEQ ID NO: 8 is identical to the IRES nucleotide sequence of the 3'-untranslated region of the mRNA for the beta subunit of mitochondrial H⁺-ATP synthase as identified and disclosed in the Application as the IRES sequence described by J. Izquierdo and J. Cuezva in the Journal of Biochemistry, Vol. 346 (2000), pp. 849 to 855;
11. Each of the nucleotide sequences of the above-identified SEQ ID NOs: 1 – 8 was publicly available as of the filing date of the Application, in at least one of GenBank deposited nucleotide sequences, commercially available plasmid products, or printed publications of technical journal

articles or the patent literature, as declared in paragraphs 3-10 of this Declaration (“Reference Sources”); and

12. In the “SUBMISSION OF AMENDMENTS AND SEQUENCE LISTING TO EFFECTUATE REVISIONS OF U.S. PATENT APPLICATION NO. 10/525,702 PROPOSED BY EXAMINER NICOLE KINSEY WHITE” identified in paragraph 2 of this Declaration, I have amended the Application to incorporate the Reference Sources by reference therein, consistent with the proposal of Examiner Nicole Kinsey White for such incorporation by reference.

As the below-named declarant, I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements are made with the knowledge that willful false statements, and the like, so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of United States Patent Application No. 10/520,557 or any patent issued thereon.

/steven j. hultquist/

Steven J. Hultquist

Date: _____ March 2, 2008 _____